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**Proposed programme budget for the biennium 2016-2017**

# Limited budgetary discretion

## Sixth report of the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget for the biennium 2016-2017

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on limited budgetary discretion (A/70/396). During its consideration of the report, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 21 October 2015.

2. The Advisory Committee recalls that, in its resolution 60/246, the General Assembly recognized the need for limited discretion in budgetary implementation for the Secretary-General within defined parameters to be agreed by the Assembly along with clear accountability mechanisms to the Assembly for its use. Subsequently, in paragraph 6 of its resolution 60/283, the Assembly decided to authorize the Secretary-General, on an experimental basis, a limited discretion for budgetary implementation for the bienniums 2006-2007 and 2008-2009 to enter into commitments of up to $20 million in each biennium for positions and non-post requirements for the purpose of meeting the evolving needs of the Organization in attaining its mandated programmes and activities. Any expenditures in that regard were to be offset by savings identified and attained during the course of each biennium within the authorized appropriation level. In addition, the authorization was to be implemented in line with nine principles outlined by the Assembly and the discretion would be limited to a total of $6 million per biennium under the authority of the Secretary-General; any amounts in excess of that level would require prior approval by the Advisory Committee (see resolution 60/283, sect. III, paras. 7 and 8).

3. The General Assembly subsequently decided, in its resolutions 64/260 and 66/258, to continue those arrangements on an experimental basis during the bienniums 2010-2011 and 2012-2013. In its most recent resolution, 68/246, the Assembly endorsed the conclusions and recommendations contained in the report of the Advisory Committee on limited budgetary discretion (A/68/7/Add.9), which recommended the continuation of limited discretionary authority on an experimental

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basis for the biennium 2014-2015 and also recommended that the Assembly request the Secretary-General to provide a comprehensive report on the implementation of the experiment that included clearer criteria to define the evolving needs of the Organization in order to ensure a more consistent approach to the usage of the limited budgetary discretion mechanism.

*Utilization of the limited budgetary discretion mechanism*

4. The discretionary mechanism has been utilized on eight occasions over the course of three bienniums (2006-2007, 2008-2009 and 2010-2011). The details of that usage are set out in the most recent report of the Secretary-General (see A/70/396, paras. 13 and 19). The total amounts utilized for each of the three bienniums were $8.8 million, $11.3 million and $8.9 million, respectively. The mechanism was last used in the biennium 2010-2011.

5. The Secretary-General indicates in his report that the mechanism allows the use of underexpenditures from within the authorized appropriation level to meet emerging needs of the Organization. Upon enquiry, the Advisory Committee was provided with information on the redeployment of resources between budget sections that have financed the use of the mechanism (see annex I). The Advisory Committee notes that over the course of the three bienniums, the most significant redeployments involved the transfer of funds from the budget sections concerning safety and security, public information and human rights to the budget sections containing the resource requirements for the Office of the Under-Secretary-General for Management, the Office of Human Resources Management and the Office of Central Support Services and for construction, alteration, improvement and major maintenance.

6. On a related matter, according to the report of the Secretary-General, during the biennium 2012-2013 underexpenditures were not anticipated owing in part to the deferral of part of the recosting requirements for posts and lower overall actual vacancy rates than budgeted. For the 2014-2015 biennium, the limited budgetary discretion mechanism was not utilized, as it was deemed that no activities emerged that met the principles set by the General Assembly and the refined criteria used by the Secretary-General to define the evolving needs of the Organization (see A/70/396, paras. 14 and 17).

*Utilization criteria*

7. In previous reports, the Advisory Committee had expressed its view that clearer criteria would ensure a more consistent approach to the usage of the mechanism (see A/66/7/Add.18, para.15 and A/68/7/Add.9, para. 9). That view was endorsed by the General Assembly. As a result, the Secretary-General issued a list of five criteria contained in his report of 27 September 2013 (see A/68/490, para. 8), followed by a refined list of four criteria in his most recent report (see A/70/396, para. 20). The proposed criteria for the use of the limited budgetary discretion mechanism are now the following:

(a) Requirements to overcome unforeseen obstacles to fully implement existing mandates;

(b) Requirements following natural or man-made disasters and crises to enable the resumption of operations in a safe and secure environment;

(c) The requirements included in (a) and (b) above cannot be funded within the respective budget section;

(d) The requirements are of a one-time nature (specific to the current biennium). If the requirements are of a continuing nature and would continue into a subsequent biennium, provisions would initially be made under the discretionary authority and the continuing costs regularized in budgetary proposals for subsequent periods.

8. In response to its request for clarification concerning the refined list of criteria, the Advisory Committee was informed that the term "unforeseen obstacles", mentioned in subparagraph (a) above, refers to additional financial requirements to support an existing mandate. Past examples include requirements to address fire safety deficiencies in the Secretariat building and the need to extend the appointments of the ad litem judges of the United Nations Dispute Tribunal and their support staff to clear the existing backlog of cases from the former system of the administration of justice.

9. With respect to the criteria in subparagraph (b) above, the Advisory Committee was informed that "man-made disasters" generally refers to disastrous events caused directly and principally by one or more identifiable deliberate or negligent human actions. Examples include disasters arising from the impact of global warming, man-made fires, civil unrest/wars and cyberattacks. Upon enquiry, the Advisory Committee was further informed that, in contrast to the other flexible funding mechanisms, the limited discretion mechanism was designed to be used to address the impact of a particular disaster on United Nations staff members themselves. The key criterion would hinge not upon the type of disaster and whether it was natural or man-made, but rather upon its impact on United Nations staff and the need to resume operations safely.

10. Regarding the difference between the limited budgetary discretion mechanism and other flexible funding mechanisms, the Advisory Committee was provided with a table comparing six flexible funding mechanisms (see annex II). Upon enquiry, the Advisory Committee was informed that, for example, the authority of the Secretary-General to enter into commitments to meet "unforeseen and extraordinary expenses" was to be used when there was an impact on or threat to the peace and security of the beneficiaries of United Nations assistance, such as subregions and countries and their populations. In 2014, for example, the initial United Nations response to the Ebola outbreak was funded from the unforeseen and extraordinary expenses mechanism rather than from the limited budgetary discretion mechanism. In addition, the Advisory Committee has made comments and recommendations on the experience of the utilization of another flexible funding mechanism, the contingency fund, in its related report (see A/70/7/Add.7).

11. **The Advisory Committee takes note of the efforts of the Secretary-General to refine the criteria and encourages him to continue refining them while ensuring the strict application of the principles contained in resolution 60/283 of the General Assembly.**

*Ongoing utility of the limited budgetary discretion mechanism*

12 The Advisory Committee notes that the limited budgetary discretion mechanism continues to be authorized only on an experimental basis. The Secretary-General

considers that the utility of the mechanism resides in its flexibility, in that it allows him to use existing funds quickly, when feasible, and does not require him to submit a separate request for an additional appropriation from Member States.

13. The Advisory Committee notes that the ceiling for the mechanism of $20 million within a given biennium has never been reached. Furthermore, the mechanism has not been used during the past two bienniums. The Advisory Committee also notes that other existing mechanisms were used to respond to recent crises such as the Ebola outbreak in western Africa and the consequences of storm Sandy at Headquarters.

14. **For those reasons, the Advisory Committee is not convinced that the experimental limited budgetary discretion mechanism continues to have merit, particularly compared with other funding mechanisms. While it questions the utility of the mechanism, the Advisory Committee recommends that the General Assembly authorize the mechanism's exceptional continuation for the biennium 2016-2017 only. Should the Secretary-General consider that the mechanism is required beyond that date, he should submit a comprehensive justification for its subsequent retention to the Assembly.**

# Annex I

## Utilization of the limited discretion for budgetary implementation by budget section

Information on the utilization of the limited budgetary discretion mechanism is detailed by budget section for the bienniums 2006-2007, 2008-2009 and 2010-2011 in tables 1 to 3, respectively.

Table 1
**Use of limited discretion during the biennium 2006-2007**
(Thousands of United States dollars)

| *Budget section* | *Use of limited discretion* | |
|---|---|---|
| | *Influenza pandemic* | *Fire code compliance* |
| 17. Economic and social development in Africa | 23.1 | – |
| 18. Economic and social development in Asia and the Pacific | 93.8 | – |
| 20. Economic and social development in Latin America and the Caribbean | 359.2 | – |
| 21. Economic and social development in Western Asia | 57.0 | – |
| 27. Public information | 92.5 | (3 500.0) |
| 28A. Office of the Under-Secretary-General for Management | 398.1 | – |
| 28C. Office of Human Resources Management | 956.9 | – |
| 28D. Office of Central Support Services | 1 603.8 | – |
| 28E. Administration, Geneva | 557.4 | – |
| 28F. Administration, Vienna | 530.0 | – |
| 28G. Administration, Nairobi | 611.6 | – |
| 32. Construction, alteration, improvement and major maintenance | – | 3 500.0 |
| 33. Safety and security | (5 283.4) | – |
| **Total** | – | – |

Table 2
**Use of limited discretion during the biennium 2008-2009**
(Thousands of United States dollars)

| *Budget section* | *Use of limited discretion* | | |
|---|---|---|---|
| | *Enterprise resource planning system* | *Influenza pandemic* | *Business continuity management*[a] |
| 2. General Assembly and Economic and Social Council affairs and conference management | (1 382.0) | (422.2) | – |
| 5. Peacekeeping operations | – | – | (1 600.0) |
| 9. Economic and social affairs | – | – | (1 500.0) |
| 17. Economic and social development in Africa | – | 215.8 | (925.8) |
| 20. Economic and social development in Latin America and the Caribbean | – | 25.5 | – |
| 21. Economic and social development in Western Asia | – | 8.3 | (800.0) |
| 23. Human rights | – | (2 000.0) | – |
| 27. Public information | (1 382.0) | 18.0 | – |
| 28A. Office of the Under-Secretary-General for Management | 2 329.5 | – | – |
| 28C. Office of Human Resources Management | – | 232.4 | 2 132.1 |
| 28D. Office of Central Support Services | 434.5 | 1 438.7 | 465.3 |
| 28E. Administration, Geneva | – | 21.7 | 471.4 |
| 28F. Administration, Vienna | – | 150.3 | – |
| 28G. Administration, Nairobi | – | 311.5 | 529.9 |
| 33. Safety and security | – | – | 418.1 |
| 36. Office of Information and Communications Technology | – | – | 809.0 |
| **Total** | – | – | – |

[a] It should be noted that an amount of $1,308,100 borrowed from posts has been redistributed within the same sections, namely section 17, Economic and social development in Africa ($676,100), section 18, Economic and social development in Asia ($86,400), section 20, Economic and social development in Latin America and the Caribbean ($236,000), section 21, Economic and social development in Western Asia ($213,700), and section 28F, Administration, Vienna ($95,900).

Table 3
**Use of limited discretion during the biennium 2010-2011**
(Thousands of United States dollars)

| Budget section | Use of limited discretion | | | | |
|---|---|---|---|---|---|
| | *Strengthening of the Office of Legal Affairs* | *Extension of ad litem judges of the United Nations Dispute Tribunal* | *Strengthening of the Administrative Law Section* | *Reconstruction of Economic Commission for Latin America and the Caribbean premises*[a] | *Total limited discretion* |
| 1. Overall policymaking, direction and coordination | – | 2 038.2 | – | – | 2 038.2 |
| 3. Political affairs | – | (1 019.1) | – | – | (1 019.1) |
| 5. Peacekeeping operations | (826.6) | – | (518.9) | – | (1 345.5) |
| 8. Legal affairs | 577.2 | – | – | – | 577.2 |
| 17. Economic and social development in Africa | – | – | – | (3 585.1) | (3 585.1) |
| 21. Economic and social development in Western Asia | – | – | – | (968.9) | (968.9) |
| 28C. Office of Human Resources Management | – | – | 518.9 | – | 518.9 |
| 28D. Office of Central Support Services | 249.4 | – | – | – | 249.4 |
| 33. Construction, alteration, improvement and major maintenance | – | – | – | 5 522.9 | 5 522.9 |
| 34. Safety and security | – | (1 019.1) | – | (968.9) | (1 988.0) |
| **Total** | – | – | – | – | – |

[a] Does not reflect insurance reimbursements of $1,785,000 that were redistributed back to releasing sections.

# Annex II

## Funding mechanisms that provide the Secretary-General with flexibility in the use of resources

| *Funding mechanism* | *Criteria* | *General Assembly resolution* | *Amount (limit)* |
|---|---|---|---|
| Contingency fund | Level of resources (usually set at 0.75 per cent of the overall level of the outline), which can be added to the budget to accommodate additional expenditure arising from programme budget implications or revised estimates as a result of new/expanded mandates or urgent changes in the scope of construction projects | 41/213 and 42/211 | The fund does not have money, but rather a set level of resources that the Secretary-General can request charges against, subject to approval by the Advisory Committee and the Fifth Committee |
| Unforeseen and extraordinary expenses | If the Advisory Committee concurs with a request from the Secretary-General to incur unforeseen and extraordinary expenses | 68/249 (paras. 1 and 3) | $10 million per unforeseen and extraordinary event (if more than $10 million, requires General Assembly approval) |
| | Commitments to meet unforeseen and extraordinary expenses if the Secretary-General certifies that they relate to the maintenance of peace and security | 68/249 (para. 1 (a)) | $8 million per each year of the biennium |
| | If the Secretary-General certifies that the commitments relate to security measures for United Nations staff, operations and premises | 68/249 (para. 1 (c)) and 59/276 | $1 million per biennium |
| | If the President of the International Court of Justice certifies that the expenses are occasioned by: (a) the designation of ad hoc judges; (b) the calling of witnesses and appointment of experts; (c) the maintenance in office of judges for the completion of cases; (d) the payment of pensions and travel and removal expenses for retiring judges and travel and removal expenses and installation grants of members of the Court; and (e) the work of the Court or its Chambers away from The Hague | 68/249 (para. 1 (b)) | $725,000 if the breakdown indicated in paragraph 1 (b) of resolution 68/249 is respected |

| *Funding mechanism* | *Criteria* | *General Assembly resolution* | *Amount (limit)* |
|---|---|---|---|
| Transfers between appropriations | Delegated to the Advisory Committee by the General Assembly in its appropriation resolutions. The Secretary-General prepares a report on proposed transfers of credits between sections at the end of the biennial period upon closure of accounts and submits it to the Committee for approval. | Financial regulation 5.6 and financial rule 105.1, resolutions 68/248 A-C | Does not result in additional appropriations but redistribution of resources between sections after the biennial financial period has closed |
| Commitments against future financial periods | The Secretary-General may enter into commitments for future period if authorized by specific General Assembly decisions or provided that they are for activities that have been approved by the Assembly and are expected to continue, e.g. rental leases. | Financial regulation 5.7 and financial rule 105.2 | Commitments will be charged against the relevant appropriations once approved by the General Assembly |
| Establishment of extrabudgetary posts at the D-1 level and above | The General Assembly decided that the establishment of all extrabudgetary posts at the D-1 level and above for which the approval of an intergovernmental organ was not required was subject to the concurrence of the Advisory Committee. Accordingly, the approval of the Controller is required and the concurrence of the Committee is requested for such posts. | 35/217 | Funded from extrabudgetary resources |
| Limited budgetary discretion mechanism | (a) Requirements would overcome unforeseen obstacles relating to existing mandates;<br>(b) Requirements following natural or human-caused disasters and crises to enable the resumption of operations in a safe and secure environment;<br>(c) The requirements cannot be funded within the respective budget section;<br>(d) The requirements are of a one-time nature (specific to the current biennium);<br>(e) The requirements can be funded through underexpenditures identified in one or more sections of the programme budget | 60/283 | $20 million, if the Advisory Committee endorses the Secretary-General's request for commitment authority<br>$6 million per biennium within the Secretary-General's authority |